

REMARKS

Please reconsider the application in view of the following remarks.

Status of the Claims

Claims 1 – 3 were previously cancelled. No new matter has been entered.

Claim Rejections - 35 U.S.C. § 103

Claims 4 - 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over **Aria et al.** (U.S. Pub. No. 2002/0133820) in view of **Ibrahim Sezan et al.** (U.S. Pub. No. 2004/0268390) and further in view of **Ellis** (U.S. Pub. No. 7370343). Applicant respectfully traverses this rejection.

Independent claim 4

Claim 4 calls for ... *means for erasing an analog channel, without viewer intervention, on which analog broadcasting in simulcast is being performed at the present time on the basis of an internal clock from a channel UP/DOWN list.*

For example, as illustrated in the flow chart of Fig. 4 of the present specification, the present time is confirmed during a program operation (step S21), and all EPG data in analog broadcasting and digital broadcasting at the present time are retrieved (step S22). **It is judged whether or not the same program as a program broadcast on an analog channel to be**

confirmed exists in digital broadcasting (step S23). If it does not exist, the analog channel to be confirmed is added to an UP/DOWN list (step S24). **In contrast, if it exists, the analog channel to be confirmed is deleted from the UP/DOWN list (step S25).** It is judged whether or not all the channels have been checked. The procedure proceeds to the step S23 if the channels which have not been checked yet exist, while proceeding to the step S21 when all the channels have already been checked. By, thus, producing the UP/DOWN list, analog broadcasting in which the same program as that in digital broadcasting is being broadcast is not tuned in to by the above-mentioned operation of the UP/DOWN key. **Consequently, a program in analog broadcasting can be prevented from being viewed without noticing the same program which is being broadcast in digital broadcasting.** *See also the description on pages 19 and 20 of the present specification.*

The Examiner acknowledges that Aria does not teach means for erasing an analog channel, without user intervention, on the basis of an internal clock from a list in said channel UP/DOWN key. Furthermore, the Examiner acknowledges that Ibrahim Sezan also fails to teach this feature because in Ibrahim Sezan it is up to the user to pick the simulcast digital channel.

Also, it is Applicant's understanding that during the Examiner Interview, conducted on May 5, 2008 between the Examiner and the undersigned, Robert Y. Raheja, that it was successfully established that Ibrahim Sezan permitted the user to select among different sources such as terrestrial sources, digital video disc, cable television, analog broadcast television, digital

broadcast television, analog radio broadcasts, and digital radio broadcasts. However, the system in Ibrahim Sezan lacked any means for erasing simulcast analog channel if present on the broadcast sources. **In other words**, the viewer receives all the broadcast channels available on each of its [viewer's] chosen sources even though user has an ability to choose a simulcast digital channel instead of an analog channel.

Nonetheless, the Examiner now issues a new ground for rejection based on newly cited art Ellis. The Examiner contends that "Ellis teaches a broadcasting receiver configured such that a channel can be changed by comprising a channel UP/DOWN key, a broadcasting receiver comprising:

- means for erasing a channel (replacing), without user intervention (venue refusal), on the basis of an internal clock (time of event) from a list in said channel UP/DOWN key (fig. 10, 13; column 16, lines 19-31).

Therefore, [the Examiner argues that] it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided replacement of programs in a guide without viewer intervention as taught by Ellis to the analog and digital simulcasting of Aria, Ibrahim Sezan to illustrate to users changes in the EPG guide schedule (col. 1, line 55-col. 2, line 7).” Applicant respectfully submits that the reference has been misinterpreted.

First, Applicant respectfully points out to the Examiner that “venue refusal” (venue protection) blackouts, as disclosed in Ellis, occur, for example, when the provider of a live event wants to protect the venue of the live event by preventing the event from being televised. For example, when a sporting event, or other event, is not sold out, the sports team may prohibit the broadcast of the event in an attempt to increase ticket sales and attendance for the event and for future events. **In other words**, a programming blackout occurs **on the channel** scheduled to broadcast the event. *See Ellis column 1, lines 45 to 53.*

Second, as explicitly noted on column 16, lines 19-38 of Ellis, in the event of venue protection blackout, the program guide may automatically replace the blacked out program with a replacement program **on the same channel** that was scheduled to broadcast the blacked out event. For example, as illustrated in Figs. 10 and 13 of Ellis, **channel 103 ESPN2** that was originally scheduled to broadcast “Yankee Game” is now going to broadcast “Boxing” due to venue protection blackout. **In other words**, the channel is not erased; it is merely that a program other than what was originally scheduled is being broadcasted on the same channel.

In contrast, the claimed invention recites a means that erases an analog channel when it determines that analog channel is being simulcast. **In other words**, when the broadcasting receiver of the claimed invention determines that the same program is being broadcasted on an analog channel as well as a digital channel, it erases the lower quality analog channel allowing the user to only access the higher quality digital channel.

Because the proposed combination of above-cited references does not teach or suggest all of the claimed elements and limitations in claim 4, Applicant submits that claims 4-6 would not have been obvious over these references and, accordingly, requests that the rejection under 35 U.S.C. §103 be withdrawn.

The Claims have been shown to be allowable over the prior art. Applicant believes that this paper is responsive to each and every ground of rejection cited in the Office Action dated August 20, 2008, and respectfully requests favorable action in this application. The Examiner is invited to telephone the undersigned, applicant's attorney of record, to facilitate advancement of the present application.

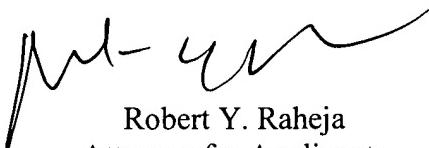
Application No.: 10/718,555
Art Unit: 2623

Amendment under 37 CFR §1.111
Attorney Docket No.: 042223

If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Robert Y. Raheja
Attorney for Applicants
Registration No. 59,274
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

RYR/bam